

PROCEEDINGS OF THE CITY PLANNING COMMISSION

December 2, 2016

Regular Meeting

A regular meeting of the City Planning Commission was held this day at 9 A.M. in the J. Martin Griesel Room of Two Centennial Plaza with the following members present: Chair Daniel Driehaus, Vice Chair John Schneider, Mr. Byron Stallworth, City Manager Harry Black, Ronald Koettters, Dr. Rainer vom Hofe, Councilmember Amy Murray, and Art Dahlberg (designee of City Manager).

Also in attendance were Mr. Marion Haynes, legal counsel, and Department of City Planning staff: Mr. Charles Graves, Ms. Rachel Culley, Mr. Jared Ellis, Mr. James Weaver, Ms. Stacey Hoffman, Mr. Steve Briggs, and Ms. Bonnie Holman.

Mr. Driehaus called the meeting to order and asked everyone to join in the Pledge of Allegiance.

The Commission approved the last prior meeting's minutes (November 18, 2016).

Mr. Black made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Black, Mr. Koettters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Mr. Driehaus stated that there were speaker cards for Item 3 and entertained a motion to move the item to the Quasi-Judicial Discussion Agenda.

The Commission approved moving Item 3 to the Quasi-Judicial Discussion Agenda.

Mr. Schneider made the motion, which Mr. Black seconded.

Aye: Mr. Black, Mr. Koettters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Consent Agenda - Legislative

Item 1 was a report and recommendation for a proposed easement above Magnolia Street for a second floor balcony on the property at 1421-1423 Elm Street in Over-the-Rhine. Department of City Planning staff recommended approval.

Item 2 was a report and recommendation on the sale of three small City-owned pieces of public rights-of-way located at Central Parkway, East Court Street, and Broadway in the overlap area

between the Central Business District and Pendleton. Department of City Planning staff recommended approval.

The Commission adopted staff's recommendations for the Legislative Consent Agenda.

Mr. Stallworth made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Black, Mr. Koetters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Consent Agenda – Quasi-Judicial

Item 4 was a report and recommendation on a Record Plat for Grandin View Subdivision in Hyde Park. Department of City Planning staff recommended approval.

Item 5 was a report and recommendation on a variance to the Subdivision Regulations to permit the subdivision of land at 1369 Myrtle Avenue in East Walnut Hills. Department of City Planning staff recommended approval.

The Commission adopted staff's recommendations for the Quasi-Judicial Consent Agenda.

Mr. Stallworth made the motion, which Mr. vom Hofe seconded.

Aye: Mr. Black, Mr. Koetters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Discussion Agenda- Quasi-Judicial

Mr. Weaver presented **Item 3**, a report and recommendation on a proposed new construction and change in use for a food market at 2801 Price Avenue within Interim Development Control Overlay District No. 80, Incline District Investment Area in East Price Hill. Department of City Planning staff recommended that the City Planning Commission take the following actions:

1. **ADOPT** the Department of City Planning staff findings that the permit application generally conforms to the application review guidelines for Interim Development Control Overlay District No. 80, Incline District Investment Area, and meets the standards set forth in Cincinnati Zoning Code Sections 1431-17 and 1445-13, as discussed on pages one to nine (1-9) of the staff report; and,
2. **APPROVE** the proposed new construction and change of use for a food market at 2801 Price Avenue within Interim Development Control Overlay District No. 80, Incline District Investment Area in East Price Hill, with the following conditions:

- a. The building footprint contains a maximum of 2,500 square feet
- b. The building be at least two stories, with a residential or office component above

Ms. Philomena Ashdown, attorney for the applicant, introduced herself and stated that she would question the speakers regarding Item 3.

Mr. Robert Zelasko, Architect and East Price Hill resident, said that he was happy to work on a project in Price Hill. He said that the applicant wanted to expand his Deli and offer more services to the neighborhood. He said that Red's Deli was a clean shop with loyal employees. He said the proposed building was simple and was not meant to be a signature building. He said that building a second story with office space would not work and that the current application meets all of the current guidelines. He stated that he supported the application, as submitted.

Mr. Driehaus asked if there was an attorney present for the opposing side to question the speakers and there was none.

Mr. Schneider stated that considering the footprint of the building, two residential units could be built on a second floor.

Mr. George Theobald Jr., of East Price Hill, said he owned nearby property and liked Red's Deli. He said he frequented the store when he was in the neighborhood maintaining his property and doing work for his tenants. He stated that the neighborhood needed the local store. He stated that he supported the application, as submitted.

Mr. David Tonne, of 811 Summit Avenue, stated that he was renovating a two family home in East Price Hill. He said he frequented Red's Deli and liked the convenience of the neighborhood store. He said that the store was cramped and needed to expand and the new building would be an improvement to the area. He said that the store promoted a walkable neighborhood and supported the application, as submitted.

Ms. Ashdown stated that the property owner of 2801 Price Avenue was Price Avenue Properties, LLC, which was owned by Anil Shaw, owner of Red's Deli.

Mr. Tom Gamel, President of East Price Hill Improvement Association (EPHIA), stated that they had been studying the area zoning for two years and asked that the Commercial Neighborhood – Pedestrian (CN-P) be changed to Pedestrian Mixed (PX), city-wide in the upcoming Land Development Code. Mr. Schneider asked how long it would take to do the city-wide zone change and Mr. Graves responded approximately six months.

Ms. Ashdown asked Mr. Gamel if he had requested the Interim Development Control Overlay District (IDC) and he stated that he had not. She asked if he was concerned with land speculation and he responded that he was not concerned.

Ms. Cindy Peelman, of 814 Summit Avenue, stated that she supported the new construction. She said a larger food store would be a blessing for the neighborhood. She said she could walk to the proposed location and could not walk to other grocery stores. She said that the new store would have video surveillance which would deter crime. She said that the owners should not be forced to build a second story and that they needed the extra space. Also, the store would be handicap accessible which would greatly benefit the senior citizens and handicapped people.

Ms. Theresa Thomas, of 2811 Price Hill Avenue, stated that she supported the application, as submitted. She said she has attended all of the meetings regarding the property and she welcomed a one story store. She said she was a community and civic minded person and loved Price Hill. She said she did not understand why this project was being pinpointed and did not think the PX zoning issue needed to be discussed at this time. Mr. Driehaus responded that they were not voting on PX zoning.

Mr. Mark Tolliver, of 2600 Bushnell Avenue, stated that he lived one minute and forty seven seconds from Red's Deli. He said that Kroger was a nineteen minute walk from his home. He said that he frequents Red's Deli with his son and that the store needs more space. He stated that he supported the application, as submitted.

Mr. Sam McKinley, of Price Hill Will, said he supported staff recommendation. He said he was very involved with CN-P and the Price Hill Plan and that PX would be an ideal zoning choice. He said he was in favor of limiting the convenience store to 2,500 feet and below. He said the current Red's Deli plan was not consistent with the Price Hill Plan.

Mr. Weaver said that there has been confusion between different zoning districts. CN-P was a zoning district in the existing Zoning Code and PX was a zoning district proposed in the draft Land Development Code. Many neighborhoods liked the CN-P zoning and PX zoning was created out of that. Mr. Driehaus asked how long it would take to change CN-P zones to PX. Mr. Weaver responded that such a change would be city-wide and take approximately six months.

Mr. Driehaus asked Mr. Haynes to read the staff recommendations. Mr. Haynes read the recommendations and reminded the City Planning Commission that since the item was quasi-judicial, the members could deliberate in a closed-door session.

Ms. Ashdown was allowed to make a statement in support of the application that was submitted. She stated that Price Avenue Properties LLC purchased the property with private funds in June

2014 with the intent to relocate Red's Deli and offer an increased variety of food. The building that was originally on the property was damaged by fire and demolished. The IDC was put in place to deter land speculation. This was not land speculation and Mr. Weaver's staff report clearly states that the application met all requirements. She said her client had spent \$150,000 and had complied with current zoning requirements. Price Avenue had a mix of buildings, some in the same style of the proposed building, which would have no adverse effect on the neighborhood. Neighbors had strongly supported the application and forcing a second story would kill the project. Other businesses were not required to have a second story. She urged the City Planning Commission members to support the original application.

City Planning Commission members adjourned to closed session at 10:40 A.M. and returned at 11:10 A.M.

The Commission adopted staff's recommendations for Item 3 on the Quasi-Judicial Discussion Agenda with the following change:

- b. The building be at least two stories, with a residential or office component above or incidental to business on first floor**

Mr. Schneider made the motion, which Mr. Black seconded.

Aye: Mr. Black, Mr. Koettters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Drieaus.

Ms. Hoffman presented **Item 6**, a report and recommendation on a Major Amendment to the Concept Plan and Final Development Plan for Planned Development #77 (PD-77) Wellington Place in Mt. Auburn. Department of City Planning staff recommended that the City Planning Commission take the following actions:

1. **APPROVE** a Major Amendment to the Concept for Planned Development #77 (PD-77) Wellington Place to reclassify the properties located at 46, 34 and 2 Glencoe Place (currently zoned RM-0.7, Residential Multi-Family) as PD (Planned Development) and,
2. **ADOPT** the Department of City Planning Findings as detailed on page 9 of the staff report and;
3. **APPROVE** a Final Development Plan for Planned Development #77 (PD-77) Wellington Place.

Ms. Hoffman presented a revised staff report and additional images.

Mr. Drieaus stated that there were three speaker cards all in favor of the project.

Mr. Schneider asked if there were parking meters on the street. Ms. Martha Kelly, of the Department of Transportation and Engineering, stated that there was free on-street parking and with the additional entry, there was less parking removed.

Mr. Dan Schimberg, of Uptown Rental Properties, stated that parking would be provided in a new parking garage, surface parking lots (one at the northeast corner of the site and one directly behind the existing building, to the west, resulting in approximately 50 spaces), and in the existing garages (approximately 18 spaces) beneath the existing building. A four level parking garage with 343 spaces would be located beneath the four new buildings. All parking areas would be accessible from Wellington Place. Parking behind the existing building at 2309 Auburn Avenue would be accessed from Glencoe Place. Glencoe Place would also serve as access for emergency vehicles and maintenance access.

Mr. Schneider asked if there would be any finishing to the garage exiting onto Wellington Avenue. Mr. Schimberg responded that the exposed concrete would not show on Wellington and other streets.

The Commission adopted staff's recommendations for Item 6 on the Quasi-Judicial Discussion Agenda.

Mr. Koetters made the motion, which Ms. Murray seconded.

Aye: Mr. Black, Mr. Koetters, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Mr. Black left the meeting at 11:40 A.M. and Mr. Art Dahlberg arrived and took his place. Mr. Driehaus introduced Mr. Dahlberg, Director of the Department of Buildings and Inspections.

Mr. Briggs presented **Item 7**, a report and recommendation on the Final Development Plan within Planned Development #76 (PD-76) at the northwest corner of West Liberty Street and Elm Street in Over-The-Rhine. Department of City Planning staff recommended that the City Planning Commission take the following actions:

1. **ADOPT** the Department of City Planning Findings as described on page 3 of the staff report and;
2. **APPROVE** a Final Development Plan for 85 new residential units and 28 units to be located in four existing buildings for a total of 113 residences and 14,400 square feet of retail/office/restaurant space within Planned Development #76 (PD-76) in Over-The-Rhine.

Mr. Tim Burke, Attorney at Manley Burke LPA, representing the applicant, confirmed time rules. He stated that the limited question was whether or not the Final Development Plan (FDP) conformed to the Concept Plan. It was approved by the Historic Conservation Board (HCB) and received a Certificate of Appropriateness. Many of the issues that have been raised by the opposition were not issues for the City Planning Commission to decide.

Ms. Anne McBride, of McBride Dale Clarion, professional land consultant, and agent for the applicant, stated that she had 35 years' experience working with the Cincinnati Zoning Code and advised her clients that the Final Development Plan for the northwest corner of Elm Street and W. Liberty Street was in compliance with the requirements of a PD District §1429-05 and §1429-11(a) "City Planning Commission Action" as described on pages 1, 2, and 3, of the staff report.

Mr. Schneider stated that there were 1.3 parking spaces for each new unit in the original plan and it was now reduced to 1.06 parking spaces. Ms. McBride responded that the project was located on the streetcar line and therefore the reduced parking was justified.

Mr. Graham Kalbli, of New Republic Architecture, architect for the project, stated that there were 85 new residential units proposed and 28 units to be located in four existing buildings for a total of 113 residences. A total of 14,400 square feet of retail/office/restaurant space was proposed. A total of 10,250 square feet of open space was included in Freeport Alley and service areas. Common open space for the development was located in a 728 square foot rooftop deck. The new building would be five stories in height with reduced height by stepping the new building to the north away from the West Liberty Street and Elm Street intersection. He said that Michael Heekin, of Source 3 Development, was in the hospital and therefore unable to attend the City Planning Commission meeting. Mr. Kalbli stated that after many meetings with the Over-the-Rhine Community Council (OTRCC), OTRCC Board, OTRCC Infill Committee, and Department of City Planning Public Staff Conferences, they prepared a Final Development Plan and presented to the Historic Conservation Board (HCB). He said that they brought samples of building materials to the City Planning Commission meeting and that they were available to view and touch. He presented and described each material.

Mr. Schneider asked Mr. Kalbli if the storefronts were consistent with other Over-the-Rhine (OTR) storefronts. He described the storefronts and said that they would enhance the pedestrian experience.

Mr. Burke presented HCB staff report #186 and asked Mr. Kalbli the steps he took to ensure that the FDP was consistent with the Concept Plan. Mr. Kalbli stated that the units, density and building heights were consistent. He stated that Phase One would have an 80 space surface parking lot with access from Green Street.

Phase Two would have 75 spaces added above the surface parking lot to create a three level parking garage. He said that according to the Cincinnati Zoning Code, they received a 50% reduction in parking due to proximity to the nearby parking garage and 50% reduction for proximity to the streetcar, and 15% reduction for multi uses, which allows for 80 parking spaces. He said the only change for the FDP was the parking plan.

Mr. Craig Gossman, Architect and Urban Design Planner of Source 3 Development, stated that he had experience planning for communities and historic areas in Cincinnati as well as nationally. He said the FDP was consistent with the Concept Plan in the density, number of units, and massing. The project was compatible with the neighborhood in the uses location, lots, and open spaces. He said when looking for new infill they reflected on history as well as new architecture. They looked at Sanborn maps. They listened to the community and reduced setback to the street line, gave up greenspace, and removed a floor which gave up 17 residential units. They also dropped massing down. They had a discussion with the City of Cincinnati Law Department to craft language for the covenants. Mr. Haynes confirmed the intent to do a covenant.

Mr. Schneider asked where the cars would park when phase two of the parking garage was being built. Mr. Gossman responded that for a short amount of time the residents would have to park elsewhere.

Mr. Koettters and Mr. vom Hofe left the meeting at 12:30 P.M.

A break was called at 12:30 P.M.

The meeting resumed at 12:45 P.M.

Mr. Burke stated that according to the City Planning Commission Rules and Procedures, all in favor of the Item should speak first. Mr. Haynes confirmed the rules regarding order of speakers. Mr. Driehaus asked for a motion to suspend the rules.

The Commission voted to suspend the rules regarding order of speakers for Item 7 on the Quasi-Judicial Discussion Agenda.

Mr. Schneider made the motion, which Mr. Driehaus seconded.

Aye: Mr. Dahlberg, Ms. Murray, Mr. Stallworth, and Mr. Driehaus.

Nay: Mr. Schneider.

Ms. Margy Waller, of the OTRCC and OTR Foundation, and Mr. Danny Klingler, of OTR Adopt, OTR Foundation and OTR resident, presented a PowerPoint outlining their objections to the Elm and Liberty project. In part, they stated that the developer failed to engage the community and that their FDP was inconsistent with the OTR Comprehensive Plan and Plan Cincinnati. Mr.

Klingler stated that the parking plan for the FDP was different than the Concept Plan and was a substantial change. The surface lot covers almost half of the site and there was no guarantee the second garage phase would ever be built. He said the development was out of scale for OTR. Mr. Burke responded that the developers removed one story from the development to reduce the scale.

He also stated that there was a great deal of support for the project from the business owners at Findlay Market.

Mr. Mark Manley, OTR resident, OTRCC Board member, OTR joint committee and infill committee member, stated that the community never approved the Liberty and Elm project.

Mr. Bradley Cooper, OTR property owner, stated that the neighborhood concerns were raised at the City Planning Commission meeting when the Concept Plan was presented. The proposed development failed in quality, design, creativity and open space. He said the alleyways should be preserved to promote walkability and livability. A creative developer would find a way to protect assets. Mr. Schneider said he shared his concerns regarding the alleyways. The purpose of a Planned Development (PD) is to encourage creative development.

Mr. Josh Springs, Executive Director of Greater Cincinnati Homeless Coalition, stated that he opposed the development because there needed to be housing available for a mix of income levels. He said that the Plan Cincinnati Live Initiative Area advocates for mixed income housing. Mr. Schneider stated that the City Planning Commission did not have the authority to act on affordable housing.

Mr. Fred Berger, OTR Business Owner and OTR Chamber member, stated he was involved with the Brewery District Plan. He gave a brief history of Liberty Street and said that it was not a gateway street. He said the huge development did not match the neighborhood.

Ms. Jennifer Lemasters Wirtz, OTR Infill Committee member and OTR Foundation member, stated that the volunteer committees consist of professionals who gave their recommendations to the developer. The project does not integrate in scale and balance. She urged the City Planning Commission members to withhold their support on this project.

Mr. Peter Hames, of 431 Klotter Avenue and OTRCC past President, stated that he opposed the project and felt it was undesirable. He said the developer could create a design to match OTR. He stated that they were told that their concerns would be addressed in the Final Development Plan, and they were not. He said that affordable housing was not included in the project.

Ms. Bonnie Neumeier, longtime OTR resident and OTR Housing Board member, said Department of City Planning staff spent a great deal of time working on plans. Intentional projects could

include affordable housing. Racial diversity was being pushed out. Many neighborhood businesses, such as laundromats and hardware stores, have been lost. People wanted an opportunity to stay in their own neighborhoods and do not deserve to be left out.

Ms. Amy Silver, OTR resident and OTRCC Board member, stated that the OTRCC passed the Concept Plan in May 2016, in order to work with Source 3 Development. She said Source 3 was not committed to working with them.

Rainer vom Hofe left the meeting at 2:25 P.M.

Jennifer Summers, Director of Peaslee Neighborhood Center, said that the experts on the fabric of the community are the people who live and work in the neighborhood. Affordable housing needed to happen and stakeholders need to come together.

Ms. Myra Greenberg of 1324 Broadway Avenue, said she believed the project needed further refinement.

Ms. Emily Waldinger, Architecture student, said the project, which is physically oppressive, showed no respect for the neighborhood. The City Planning Commission was the protector of neighborhood.

Ms. Austin Hogans, Architecture student, said the project did not celebrate the neighborhood and was a hurried and sub-par design. The positives in the project did not outweigh the negatives.

Mr. Burke commented that they should not overlook the four historic buildings that were being saved.

Mr. Jules Rosen, of Spring in Our Steps, stated that Freeport Alley should be preserved and not privatized.

Mr. John Walter, of 524 Conroy Street, stated that he and many people in OTR were supportive of this project. The residential units would provide shoppers for the businesses in OTR. The basis for having a streetcar was to have high density buildings along the route. There was a great lack of quality housing in OTR. Supply and demand is what raises rental prices.

Kristin Myers, Attorney with Beck Wiles Shepard, OTR resident and Secretary of the OTR Foundation, said it was challenging to meld modern with historic architecture. She stated that Liberty and Elm was a large site and it was important to get it right. No one would want the site to remain vacant; however the project would need to enhance the quality of the neighborhood. She urged the City Planning Commission members to delay their decision.

Mr. Steve Tino, Manager of 224 West Liberty Group and current property owner, stated that he witnessed the many meetings that Source 3 Development attended. He said they came up with a financially sound project and not everyone would be happy. Findlay Market vendors needed this project. The parking would be self-sufficient and the project would help the entire area. He encouraged the City Planning Commission members to approve the project.

Ms. Erin Heekin, wife of Michael Heekin of Source 3 Development, said Mr. Heekin worked very hard with the community. She said that this project would benefit many people in the OTR neighborhood.

Mr. Kam Mishett, restaurant owner and friend of Michael Heekin, stated that this project was a first class development and that it would be done right.

Mr. Greg Albright, Architect and Pendleton business owner said that the streetcar was an economic catalyst. He said that the OTR historic district was a treasure and it was absurd to say that five stories was too tall for the project.

Mr. Pete DiSalvo, President of DiSalvo Development Advisors, LLC, stated that he studied the streetcar in Cincinnati and that high density development improved ridership and spending dollars to businesses along the route. He said there were limited possibilities to develop high density.

Mr. Randal Cooper, of 14 West 14th Street, said he purchased property a couple of years ago and enjoyed living in OTR. He said the project was saving four historic vacant buildings and was not displacing any residents. He said he felt the building fit the neighborhood and provided a gateway to Findlay Market.

Mr. Hank Davis, of 621 Main Street, said he was passionate about Downtown and OTR. He said with the streetcar a car was not needed and that in order to have a local grocery store and other businesses high density projects were needed.

Mr. Burke said that a building project needed to be functional as well as financeable. The developer wanted to build a three level parking garage. They could go forward with the surface lot because of the streetcar and nearby parking. The developer tried to work with the neighborhood. He urged the City Planning Commission members to approve the project.

Mr. Dahlberg asked if there would be a trigger to cause the parking garage to be built. Mr. Burke responded that there was not a trigger other than financing.

Mr. Driehaus stated that all speakers had the opportunity to be heard.

Mr. Schneider stated that he still had concerns about the parking reduction.

Ms. Murray stated that there were a great deal of letters and emails from citizens and business owners. She said that four historic buildings were being saved and people were not being displaced. Findlay Market would have 150 new potential customers for their businesses and the streetcar helped with the parking situation. It was in the developer's best interest to have adequate parking and they made some concessions. The project would bring new jobs and people to the neighborhood.

The Commission adopted staff's recommendations for Item 7 on the Quasi-Judicial Discussion Agenda.

Ms. Murray made the motion, which Mr. Driehaus seconded.

Aye: Mr. Dahlberg, Ms. Murray, Mr. Stallworth, and Mr. Driehaus.

Nay: Mr. Schneider.


There was no Director's report given due to the length of the meeting.

The meeting adjourned at 3:40 P.M.



Charles C. Graves, III, Director
Department of City Planning

Date: 1/20/17



Daniel Driehaus, Chair
City Planning Commission

Date: 1/20/17